

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: U S WEST COMMUNICATIONS, INC., n/k/a QWEST CORPORATION	DOCKET NOS. INU-00-3 WRU-99-8-272 WRU-00-88-272
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**ORDER DEREGULATING LOCAL DIRECTORY ASSISTANCE,
CONTINUING PREVIOUS GRANT OF WAIVER,
AND REQUIRING NOTICE**

(Issued February 23, 2001)

INTRODUCTION

On February 11, 2000, U S WEST Communications, Inc., n/k/a Qwest Corporation (Qwest), filed a petition asking the Utilities Board (Board) to determine that the provision of local directory assistance (DA) services in Iowa are subject to effective competition and should be deregulated. Pursuant to 199 IAC 5.3(1), the Board initiated a formal notice and comment proceeding, identified as Docket No. INU-00-3.

The petition filed by Qwest provided indications that the criteria for effective competition as detailed in 199 IAC 5.6(1) may be met. These criteria include the availability of comparable services from a choice of suppliers, inability of a single provider to determine or control prices, ease and likelihood of entry, and substitutability of one provider's service for another.

On March 10, 2000, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response to the petition and requested the

Board docket this matter as a formal notice and comment proceeding. Consumer Advocate's response denied the material allegations of the petition, citing a lack of information sufficient to make such determinations.

Both Qwest and Consumer Advocate filed statements of position on July 12, 2000. Counter-statements were filed August 9, 2000. An oral presentation was held on September 7 and 8, 2000.

ANALYSIS

Iowa Code § 476.1D(1) (2001) provides in part:

... In determining whether a service or facility is or becomes subject to effective competition, the board shall consider, among other factors, whether a comparable service or facility is available from a supplier other than the telephone utility and whether market forces are sufficient to assure just and reasonable rates without regulation.

2. Deregulation of a service or facility for a utility is effective only after all of the following:

- a. A finding of effective competition by the board.
- b. Election by a utility providing the service or facility to file a deregulation accounting plan.
- c. Approval of a utility's deregulation accounting plan by the board.

199 IAC 5.6(1) provides the following guidance to the Board:

Criteria for effective competition. In determining whether a service or facility is subject to effective competition, the board will consider whether a comparable service or facility is available from a supplier other than the telephone utility and whether market forces are sufficient to ensure just and reasonable rates without regulation. In addition, the board may consider the following criteria:

- a. The ability or inability of a single provider to determine or control prices;
- b. The ease with which other providers may enter the market;
- c. The likelihood that other providers will enter the market;

- d. The substitutability of one service or facility for another;
and
- e. Other relevant considerations.

I. EFFECTIVE COMPETITION

A. Is a comparable service or facility available from a supplier other than Qwest?

A comparable service does not require that the service be identical or even appear to be identical. To be comparable, a service must be alike in "substance." In other words, can you obtain the same information (local directory information) from a different service. Although Consumer Advocate argued that a 411-directory assistance call is different from other directory assistance calls, the Board does not agree. All directory assistance services discussed in evidence provide both local directory information as well as non-local national directory assistance. Within the local directory assistance market, there is a difference in dialing patterns, the "bundling" of additional services, and price. However, the Board finds that the service of providing local directory assistance is comparable and this service is available to all consumers from a number of other suppliers, such as AT&T and WorldCom. (Tr. pp.14-15). Directory assistance obtained by dialing 411 is not a local market, but instead is part of a national market.

B. Are market forces sufficient to assure just and reasonable rates without regulation?

The Board finds that market forces should be sufficient to assure just and reasonable rates without the Board setting those rates. The rates are not the only consideration in this service. It is important to note that deregulation does not automatically correspond to lower prices. Many of the directory assistance service

offerings of competitors provide additional options to consumers, including call-completion, yellow page searches, reverse searches, etc.

The Board, as well as Consumer Advocate, can only speculate as to what deregulating local directory assistance service will do to the market or rates. Evidence presented in this proceeding has shown that Qwest call volumes for this currently regulated service have been dropping, even though most of the comparable services are more expensive. The competitive market should be allowed to provide differing services, at differing rates, so that consumers may choose among the offerings.

C. Does any single provider have the ability (or inability) to determine or control prices?

The Board found little evidence in the record that would show conclusively that any single provider had either the ability or inability to determine or control prices. Consumer Advocate does not contend that Qwest's local directory assistance price is unreasonable. Since the rates currently being charged by Qwest are at the low end of the price range for local directory assistance, it would seem Qwest has little ability to determine or control prices in the rest of the market. The Board is most reluctant to continue to regulate local directory assistance where competition clearly exists, where rates of the competitors are considerably higher than rates being charged by Qwest, and where so many comparable services exist.

D. Does ease of entry into the market by other providers exist? What is the likelihood that other providers will enter the market?

From the evidence presented, the Board concludes that entry into the local directory assistance market must be relatively easy to accomplish. According to the

evidence, there are approximately 27 long distance carriers, seven "dial-around" carriers, five wireless carriers, and 15 Internet service providers that have already entered the directory assistance market in Iowa. (Tr. pp. 21, 36).

E. Is there a service that is substitutable?

Because the Board has determined that local directory assistance is merely a sub-part of the larger national directory assistance, interLATA directory assistance is not just substitutable, but is effectively the same service. InterLATA directory assistance services were deregulated by the Board by order issued May 20, 1996, in Docket No. INU-95-3.

II. ESSENTIAL COMMUNICATIONS SERVICE

Once the Board has determined that local directory assistance is subject to effective competition, Iowa Code § 476.1D(5) (2001) allows it to ascertain whether the service is an essential communications service such that the public interest would warrant retention of service regulation. The following criteria are suggested for the Board's consideration in 199 IAC 5.6(2):

- a. Relative universality of customer use of the service or facility;
- b. Degree to which the service or facility is necessary to access the telecommunications network;
- c. Extent to which the public, subsets of the public, or individuals rely on the service or facility;
- d. Potential for harm and its relative impact in the event of inadequate service quality;
- e. Any economic incentives which might discourage reasonable service quality;
- f. Existence of subcategories within a category of generally competitive services or facilities where the competition is ineffective to ensure reasonable service quality for the subcategory; and
- g. Other relevant considerations.

Although local directory assistance service is currently universally available to customers, it is not universally used. According to evidence presented, a large percentage of Qwest residential and business customers do not use local directory assistance in any given month. Clearly, there are exceptions to that general statement of usage. The visually and physically handicapped rely upon the service to a much greater degree than do non-handicapped customers. If the service is deregulated, Qwest has pledged in these proceedings that it will not bill handicapped customers for local directory assistance calls.

It is important to note that deregulation of local directory assistance would not apply only to Qwest, but to the entire local directory assistance market in Iowa. The Board would expect that other incumbents who file tariffs removing deregulated local directory assistance service would make similar pledges to diminish any need for continuing regulation.

Currently, the evidence would suggest that most of the competition in this market seems to be of premium-priced services with a lack of lower-priced "plain vanilla" alternatives. The Board is hopeful that lower cost directory assistance services will emerge if demand is adequate.

III. WAIVER OF ACCOUNTING PLAN

Qwest requested "a waiver of the requirement to file an accounting plan," presumably a reference to 199 IAC 5.7(b) and (c). The Board has previously waived the accounting plan requirements of 199 IAC 5.7(b) and (c) in its March 12, 1999, order in Docket No. WRU-99-8-272 in anticipation of a U S WEST filing to deregulate intraLATA directory assistance. The Board's analysis in granting the previous waiver

continues to apply. With Qwest continuing to operate under price regulation, a deregulation accounting plan would serve no useful purpose. The fact that Qwest's rates were not, at the time the previous waiver was granted, based on its current cost of providing service has not changed. The Board's previous grant of waiver will continue.

IV. EXOGENOUS FACTORS AND REVENUE NEUTRALITY

Exogenous factors, which can justify rate adjustments under Qwest's price regulation plan, are circumstances, costs, and situations that lie outside a company's control. Such factors are created by events like changes in separations policies, tax law changes, and the reallocation of regulated and nonregulated costs. The deregulation of a service pursuant to state law is not an exogenous factor requiring any adjustment to rates under Qwest's price regulation plan.

The deregulation of local directory assistance service is unique in that currently 199 IAC 22.3(9) requires that a customer not be billed for the first two directory assistance calls from a customer's station each month. Thus, with the deregulation of local directory assistance services, a company can begin billing for all directory assistance calls, including calls which would have previously been provided at no charge.

The record simply does not contain evidence that would allow the Board to quantify an amount by which Qwest's other rates should be adjusted. Although some information was presented, the nature of telephone rate cases prevents the Board from determining the costs and revenues used in setting the current rates for local

directory assistance service. Without that information, the Board has no way of determining any reasonable adjustment.

V. NOTICE TO CUSTOMERS

Although the parties did not discuss the issue of notification to customers, the Board finds that it is reasonable and necessary for Qwest and other rate-regulated and non rate-regulated local carriers to provide this information to customers prior to the time it starts to bill for local directory assistance calls that would previously have been provided at no cost. If Qwest provides this notice through a bill insert, it must provide the notification at least one billing statement prior to the time it begins to bill for all local directory assistance calls.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. Local directory assistance service is found by the Board to be subject to effective competition.
2. For all rate-regulated and non rate-regulated utilities, local directory assistance service will be deregulated effective upon removal of the service from each utility's tariffs.
3. Before a rate-regulated or non rate-regulated utility may begin to bill for local directory assistance calls that would previously have been provided at no cost pursuant to 199 IAC 22.3(9), it must remove the service from its tariff and provide notification to its customers. Such notice must be provided at least one billing statement prior to the time it begins to bill for local directory assistance calls.

4. The Board would expect that any company filing tariff pages to remove this deregulated service will make a pledge that it will not bill handicapped customers for local directory assistance calls.

5. The Board's previous grant of a waiver of the accounting plan requirements of 199 IAC 5.7(b) and (c) in its March 12, 1999, order in Docket No. WRU-99-8-272 will continue.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Judi K. Cooper
Acting Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 23rd day of February, 2001.